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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/048,053	01/25/2002	Roland Henry Pratt	111805	8743
25944	7590	05/10/2004	EXAMINER	
OLIFF & BERRIDGE, PLC P.O. BOX 19928 ALEXANDRIA, VA 22320			VY, HUNG T	
			ART UNIT	PAPER NUMBER
			2828	

DATE MAILED: 05/10/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. <i>6X</i>	Applicant(s)
	10/048,053	PRATT, ROLAND HENRY
	Examiner Hung T Vy	Art Unit 2828

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 27 February 2004.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1 and 3-13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1 and 3-13 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: _____.

DETAILED ACTION

1. In response to the amendment filed on 02/27/2004, claims 1, and 3-13 are pending in this application.

Claim Rejections - 35 U.S.C. § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1 and 3-13 are rejected under 35 U.S.C. 103 (a) as being unpatentable over Eberhardt, U.S. patent No. 4,535,241 in view of Sanders et al., U.S. Patent No. 4,475,199.

Regarding claims 1, and 6-9, Eberhardt discloses an optical apparatus comprising frequency stabilized linear HeNe gas laser (See column 8, line 16-17) having a resonant cavity, and at least optical feedback elements (15,12,18) (See fig. 1). It is inherent that at least 0.1% of light output of the laser to be returned toward the laser that means the range of light to be return is very big so all the light feedback to have on that range, but Eberhardt does not disclose Ne²⁰ and Ne²² isotope in substantially equal proportions. However, Sanders et al. disclose Ne²⁰ and Ne²² isotope in substantially equal proportions (See column 9, line 37-44 and fig. 8). It is inherent that the device

being any one of a single light, plane mirror, a long range, or an optical fiber type. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to modify Eberhardt to have Ne²⁰ and Ne²² isotope in substantially equal proportions as taught by Sanders et al. because those skilled in the art will recognize that such modification and variations can be made without departing from the spirit of the invention. Further, Eberhardt discloses the frequency stabilized linear HeNe gas laser (See column 8, line 16-17) having Ne²⁰ and Ne²² (See column 6, line 1-16 and column 7, line 43-54) so a person having ordinary skill in the art to modify Ne²⁰ and Ne²² isotope in substantially equal proportions as Sanders et al. in order to get desire frequency (See column 6, line 1-15)

Regarding claim 3-5, and 10-13, the recitation that interferometric displacement determination device, a polarization measurement device, a spectroscopic analysis apparatus and heterodyne frequency has not been given patentable weight because it has been held that a preamble is denied the effect of a limitation where the claim is drawn to a structure and the portion of the claim following the preamble is a self-contained description of the structure not depending for completeness upon the introductory clause. *Kropa v. Robie*, 88 USPQ 478 (CCPA 1951).

Response to Arguments

3. Applicant's arguments with respect to claims 1 and 3-13 have been considered but are moot in view of the new ground(s) of rejection.

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hung Vy whose telephone number is (571) 272-1954. The examiner can normally be reached on Monday-Friday 8:30 am - 5:30pm. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Don Wong can be reached on (571) 272-1834. The fax numbers for the organization where this application or proceeding is assigned are (703) 872-9306 for regular communications and (703) 308-7722 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.

Hung T. Vy
Art Unit 2828
April 19, 2004



Wilson Lee
Primary Examiner